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April 2, 2007

Commissioner Deborah Taylor Tate
Federal Chair, Federal-State Joint Board on Universal Service
Federal Communication Commission
445 Twelfth Street, SW
Washington, DC 20054

Commissioner Ray Baum
State Chair, Federal-State Joint Board on Universal Service
Oregon Public Utilities Commission
550 Capitol St., SE, Suite 215
Salem, OR 97308

**RE: High Cost Universal Service Support, WC Docket No. 05-337
Federal-State Joint Board on Universal Service, CC Docket No. 96-45**

Dear Commissioner Tate and Commissioner Baum:

Windstream Communications¹ ardently supports the Joint Board and Federal Communications Commission's review of the high-cost mechanism² and is

¹ Windstream is an S&P 500 communications company formed in the summer of 2006 through the spin-off of Alltel's wireline business and merger with VALOR Communications Group. Windstream provides voice, broadband, and entertainment services to customers in rural areas of 16 states.

² The Commission originally asked the Joint Board to review the high-cost mechanism in June 2004. *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 19 FCC Rcd. 11538 (released June 28, 2004). Since that time, the Joint Board has considered various ways to reform the current system and numerous parties have filed comments in this docket forming a voluminous record supporting the need for fundamental reform. See *Federal-State Joint Board on Universal Service Seeks Comments on Certain of the Commission's Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, FCC 04J-2 (released August 16, 2004); *Federal-State Joint Board on Universal Service Seeks Comments on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, FCC 05J-1 (released August 17, 2005); *Federal-State Joint Board on Universal Service Seeks Comments on the Merits of Using Auctions to Determine High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, FCC 06J-1 (released August 11, 2006).

encouraged by the Joint Board's February 20th *en banc* hearing. As a result of the hearing and indications that the Joint Board will provide a recommendation soon, parties have submitted additional *ex parte* comments proposing reform, which have focused the debate. Windstream agrees with some of these suggestions but, as described in this letter, its views differ on several critical issues in important ways.

Substantial reform of the high-cost mechanism is long overdue and urgently needed. Simply put, the current universal service high-cost mechanism falls well short of accomplishing the public policy goals set out in section 254 of the Act.³ The framework in place today is fundamentally flawed because it fails to target explicit support to high-cost areas to the detriment of many rural consumers. Moreover, the "rural" mechanism, which is based on embedded costs, provides higher levels of support to less efficient providers than perhaps is necessary. Likewise, the "non-rural" mechanism provides funding based on statewide averaged costs, which likely provides too little support in many cases. Complicating matters, the rules allow multiple Competitive Eligible Telecommunications Carriers (CETCs) to receive support based on other carriers' costs, which are often unrelated to the CETCs costs and based on different technologies. This has caused the fund size to balloon in recent years undermining the viability of universal service as a whole.

Reform is needed to bring the operation of the program in line with its main purposes: to provide specific, predictable, and sufficient support in high-cost areas; to preserve and advance universal service; and to ensure access to those services at rates that are affordable, reasonable, and comparable to rates in urban areas.⁴ Continued reliance on implicit support through cost averaging over large geographic areas also undermines universal service in today's competitive environment. As the Nation's telecommunications infrastructure transforms from a circuit switched environment to one based on broadband and IP technology, it is imperative that the Joint Board recommend a framework that will provide a stable environment for carriers to continue the efficient deployment of broadband and advanced telecommunications networks in rural America.

As the largest provider focused almost exclusively on rural areas -- with over three million access lines and an average density of 25 access lines per square mile -- and one of the leading providers of broadband in the Nation, Windstream is uniquely positioned to comment in this proceeding.⁵ Windstream is an efficient

³ 47 U.S.C. §254.

⁴ *Id.* at §254(b).

⁵ Windstream has diverse experience with the complexity of the current universal service rules qualifying as both a "rural" and "non-rural" carrier for USF purposes. Windstream has "rural" study areas that are below 50,000 loops -- and receive Local Switching Support as a result -- and study areas larger than 200,000 lines -- and, as such, receive less support than rural study areas with

provider of telecommunications services to rural consumers and is not heavily reliant on receiving high-cost support from the Federal universal service fund.⁶ Windstream does not seek reforms that would significantly alter the level of high-cost support it receives. Rather, Windstream's interest in reform is to rationalize universal service to better align the incentives for carriers serving rural areas to promote efficient operations and investment. As such, unlike many rural carriers who fear reform and might prefer to maintain the status quo, Windstream supports meaningful universal service reform. In order to be meaningful, however, reform must address the fundamental flaws inherent in the current broken system. As described below, these flaws include funding multiple CETCs without regard to their own costs, failing to target support to high-cost areas, providing too much support to some providers and not enough to others, all without an objective way to assure service is affordable to consumers. Although, growth of the fund in recent years has been significant and threatens the sustainability of the fund, the Joint Board should make specific recommendations to resolve the issues described above and not limit its focus to just controlling the size of the fund.

Merely freezing in place the current levels of support distributed under existing rules, as proposed by Verizon,⁷ without modifying the way support is distributed is not in the public interest and does not further the principles set out in the Act. Instead, the Joint Board must consider the universal service goals set forth in the Act and recommend forward-looking and rational universal service reforms that target adequate explicit support to high-cost areas. To do otherwise, would perpetuate the inequities and insufficiencies in the current mechanism to the detriment of rural consumers and the Nation.

Control Growth By Addressing The Source – CETCs

As Chairman Martin observed at the recent Joint Board *en banc* hearing on this matter, "almost all the recent growth in high-cost universal service is largely as a result of CETC access to high cost support."⁸ He noted that support going to CETCs has grown at a trend rate of over 100 percent a year since 2002, and from \$1 million in 2001 to \$1 billion in 2006. These trends are expected to continue in the future unless meaningful reform is adopted.⁹

fewer lines but similar cost characteristics. In some cases our funding is limited, pursuant to §54.305 of the Commission's rules, by the amount of support that another provider received before we purchased their lines. 47 C.F.R. §54.305. The benefit of this complexity to rural consumers and the public interest is often hard to discern.

⁶ Windstream receives less than 1% of its total revenue from high-cost loop and model support, and less than 3% of its total revenues from all Federal high-cost support combined.

⁷ See Letter from Kathleen Grillo, Verizon, to Deborah Taylor Tate, FCC, and Ray Baum, Or. Pub. Serv. Comm'n, WC Docket No. 05-337 (filed Feb. 9, 2007).

⁸ See Opening Remarks of Chairman Kevin Martin, Federal-State Joint Board on Universal Service *En Banc* Meeting at 4 (Feb. 20, 2007).

⁹ See *id.* at 5.

There is no limit in the rules to the number of CETCs that may be designated for a particular area. As a result there are many areas with multiple mobile CETCs all receiving universal service support for serving many of the same consumers. Moreover, those CETCs receive support based on the incumbent local exchange carriers' costs rather than their own. So, not only are multiple CETCs allowed to line up for support, but the amount of support they ultimately receive is not related to their own costs (however those are defined).

To gain control of the exponential growth, the Joint Board should recommend limiting support to one fixed ETC and one mobile ETC per area. If the Joint Board is inclined to recommend that the FCC use reverse auctions to distribute support, the Commission could, as Verizon has suggested, start in areas with multiple mobile CETCs. This would provide a controlled environment to develop a reverse auction process. The Joint Board should also recommend suspending new designations until comprehensive high-cost mechanism reform can be achieved. Reducing multiple mobile CETCs to one per area, providing support based on the CETC's own costs (or a reverse auction), and halting the proliferation of CETCs to new areas will control the problematic and systemic growth in the fund by addressing it at the source.

Target Support To Rural, High-Cost Areas

The Joint Board and the Commission should ensure adequate support is available for high-cost areas by actually targeting support to those areas, which the current mechanism fails to do. As a result of this failure, many rural and high-cost areas have been under-funded for years (and the converse is surely true in some areas as well). Windstream agrees with other carriers that have proposed targeting support at a wire center level and will not repeat those proposals here.¹⁰ Averaging support over large areas (e.g., states or in some cases study areas) often prevents support from being directed to high-cost areas in a meaningful way, dampening investment in those high-cost areas. Targeting support to high-cost areas at the wire center level will direct support more directly, equitably, and rationally to benefit rural consumers.

Optimize Support Levels

Concurrent with targeting support to rural, high cost areas and controlling the source of the runaway growth in the fund, the Joint Board should recommend the adoption of a new methodology to calculate costs used to determine and distribute support to high-cost areas. The new calculation methodology should be based on forward-looking costs to encourage carriers serving rural consumers to

¹⁰ See, e.g., Presentation of Brian K. Staihr, Regulatory Economist – Embarq, Federal-State Joint Board on Universal Service *En Banc* Hearing (February 20, 2007).

efficiently operate and invest in their networks. The Commission could combine this cost methodology with improved targeting to ensure that support is fairly and reasonably distributed. The Commission could also designate funds made available from eliminating multiple mobile CETCs to support under-funded high-cost areas.

The current forward-looking model used by the Commission is inadequate and does not accurately estimate forward-looking costs. Substantial improvements have been made, however, in modeling of forward-looking costs.¹¹ Consistent with these improvements, the Commission can develop a more accurate and meaningful model. Of course, any model that is adopted should be designed to target support at the wire center level and should use geo-coded customer location information. This is particularly important for rural serving areas where accurate customer location information is critical to develop reasonably accurate estimates of the cost of providing universal service. Of course, Windstream recognizes that for the smallest companies (not small study areas held by larger companies), the practical reality may require the Joint Board to consider the continued use of embedded costs because modeling may not be efficient or practical for those providers. If so, this should not hinder reform for the rest of the industry.

Reverse auctions are an interesting concept worthy of close examination, but their use should be approached with caution. Although using reverse auctions to size the universal service need for a particular service area and service offering is worth exploring, as the record in this proceeding indicates, designing such an auction framework and process is a complex matter. As suggested above, if the Joint Board is inclined to recommend the use of reverse auctions it should start on a trial basis in areas with multiple mobile CETCs to select the one mobile CETC to receive support.

¹¹ See, e.g., Presentation of Jim Stegeman, CostQuest Associates, Federal-State Joint Board on Universal Service *En Banc* Hearing (February 20, 2007).

Institute Affordability Benchmark

Since the passage of the 1996 Act, many states have taken on the challenge of rebalancing rates, removing implicit support, establishing explicit universal service funds, and ensuring that rates remain affordable. Other states have not.

Therefore, the Joint Board should recommend that the Commission adopt an affordability benchmark mechanism to encourage reasonable and comparable rates across the Nation. An affordability benchmark would better distribute the universal service burden across all consumers. The Joint Board or the Commission could develop their own benchmark or use as a starting point the one jointly developed for the Early Adopter Fund by state commissions and industry participants in the Commission's intercarrier compensation reform docket.¹² Affordability benchmarking would help ease the burden of the overall universal service fund and ensure equitable and sufficient support as required by the Act.

* * *

The Joint Board should recommend and the Commission should adopt reforms that fulfill the vision of universal service set out in the Act – to provide adequate explicit support for rural, high-cost areas to ensure reasonably comparable services at affordable rates. Unfortunately, the current rules cause irrational outcomes that negatively affect consumers in many high-cost areas and do not recognize the competitive realities of the marketplace. The Joint Board should not settle for freezing in place that broken and outdated system.

Sincerely,

/s/ Eric N. Einhorn

cc: Joint Board Members and Staff

¹² See Letter from State Commissions and Missoula Plan Supporters to Marlene Dortch, FCC, CC Docket No. 01-92 (filed Jan. 30, 2007).